

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:09CR53 MAC/KPJ
	§	
JAMES EARL RUYLE	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the Government's request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on November 22, 2016, to determine whether Defendant violated his supervised release. Defendant was represented by Felix Marquez. The Government was represented by Maureen Smith.

On December 8, 2009, Defendant was sentenced by the Honorable Marcia A. Crone, United States District Judge, to a sentence of eighteen (18) months imprisonment followed by a one (1) year term of supervised release for the offense of Interstate Transportation of Stolen Motor Vehicle. Defendant began his term of supervision on December 12, 2014.

On January 12, 2016, the U.S. Probation Officer filed an Amended Petition for Warrant or Summons for Offender under Supervision (the "Petition") (Dkt. 40). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five (5) days of each month; (2) Defendant shall notify the probation officer ten (10) days prior to any change of residence or employment; (3) Defendant shall participate in a program of testing and treatment of drug abuse, under the guidance and direction of the U. S. Probation Office, until such time as

Defendant is released from the program by the probation officer; (4) Defendant shall not commit another federal, state, or local crime; (5) Defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon; and (6) Defendant shall not commit another federal, state, or local crime.

The Petition alleges that Defendant committed the following violations: (1) On March 2, 2015, Defendant failed to report to the U. S. Probation Office in the Western District of Arkansas, Fort Smith Division, as directed; (2) On March 3, 2015, the U. S. Probation Office in the Western District of Arkansas, Fort Smith Division, was advised Defendant quit his job, disconnected his cell phone, and moved from his residence. Defendant failed to notify the U. S. Probation Office of his employment status and his change in residence, and his whereabouts are unknown; (3) On March 2, 2015, Defendant failed to submit a random drug test as directed; (4 and 5) On October 8, 2015, Defendant was arrested in Ladonia, Texas and was found to be in possession of a Bersa Lusber 84, 7.65 caliber hand gun with one magazine. On December 17, 2015, he was indicted by Fannin County, Texas, for Unlawful Possession of a Firearm by a Felon in Case Number Cr-15-25690; and (6) On December 5, 2015, Defendant was indicted in Hopkins County, Texas, for the offense of Burglary of a Building in Case Number 1525008.

At the hearing, Defendant entered a plea of true to the six (6) alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, and having considered the arguments

presented at the November 22, 2016, hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of eighteen (18) months, with one (1) year supervised release to follow, to run consecutively to any other sentence being served.

SIGNED this 18th day of January, 2017.

A handwritten signature in black ink, appearing to read 'KLPJ', is written over a horizontal line.

KIMBERLY C. PRIEST JOHNSON
UNITED STATES MAGISTRATE JUDGE